

2007 DRAFTING REQUEST**Bill**Received: **01/14/2008**Received By: **dkennedy**Wanted: **As time permits**

Identical to LRB:

For: **Jim Sullivan (608) 266-2512**By/Representing: **Nicole Hudzinski (aide)**This file may be shown to any legislator: **NO**Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - public health**

Extra Copies:

Submit via email: **YES**Requester's email: **Sen.Sullivan@legis.wisconsin.gov**Carbon copy (CC:) to: **robin.ryan@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Provide health care provider access to cancer reporting system

Instructions:

See Attached (same as 07-3687/2)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	dkennedy 01/14/2008	jdyer 01/14/2008		_____			State Crime
/1			rschluet 01/14/2008	_____	lparisi 01/14/2008	cduerst 01/23/2008	

FE Sent For: **"/1" @ intro. 1-24-08** **<END>**

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/?	dkennedy	1/14jld					
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FE Sent For:

<END>

Kennedy, Debora

From: Houdek, Nathan
Sent: Friday, January 11, 2008 2:03 PM
To: Kennedy, Debora
Cc: Hudzinski, Nicole
Subject: Cancer Registry bill companion

Hello Debora,

This message is to inform you that Senator Jim Sullivan has our authorization to request a senate companion to the latest version of LRB 3687, relating to the state cancer registry.

I have cc'd Nicole Hudzinski from Senator Sullivan's office on this message. She will be the contact person in that office for this legislation.

Feel free to contact me if you have any questions.

Thanks,

Nathan

Nathan Houdek
Office of Representative Jennifer Shilling
95th Assembly District
phone 608.266.5780
toll-free 888.534.0095
fax 608.282.3695

Kennedy, Debora

From: Hudzinski, Nicole
Sent: Friday, January 11, 2008 2:18 PM
To: Kennedy, Debora
Subject: FW: Cancer Registry bill companion

Hi Debora, please draft a senate companion for LRB 3687. Thanks

From: Houdek, Nathan
Sent: Friday, January 11, 2008 2:03 PM
To: Kennedy, Debora
Cc: Hudzinski, Nicole
Subject: Cancer Registry bill companion

Hello Debora,

This message is to inform you that Senator Jim Sullivan has our authorization to request a senate companion to the latest version of LRB 3687, relating to the state cancer registry.

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Nathan

Nathan Houdek
Office of Representative Jennifer Shilling
95th Assembly District
phone 608.266.5780
toll-free 888.534.0095
fax 608.282.3695

TUESDAY

2007 - 2008 LEGISLATURE

3843/1
LRB-3687/2
DAK,jld&wlj:as
stays

2007 BILL

X

Regen

1 AN ACT *to amend* 146.82 (2) (a) 8.; and *to create* 20.435 (1) (ae), 255.01 (2m),
2 255.01 (2n), 255.04 (3) (c), 255.04 (6), 255.04 (7), 255.04 (8), 255.04 (9) and
3 255.04 (10) of the statutes; **relating to:** permitting a researcher, under certain
4 conditions, access to cancer information reported to the Department of Health
5 and Family Services, prohibiting certain other use or redisclosure of the
6 information, creating civil liability for violation of the prohibitions, making an
7 appropriation, and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, hospitals, physicians, and certain laboratories must report to the Department of Health and Family Services (DHFS) information concerning any person who is diagnosed as having cancer or a precancerous condition. Any information that DHFS receives under this requirement that could identify the person or a physician who submits the report is confidential as a patient health care record, except that DHFS may disclose the information to a central tumor registry in another state, if the person who is the subject of the information resides in the other state, or to a national tumor registry.

Beginning July 1, 2008, this bill permits DHFS to disclose otherwise confidential cancer report information to a researcher who requests it, by means of a written application to DHFS, for the purpose of studying cancer, cancer prevention,

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or cancer control or performing other cancer research. The application must include a written protocol for the proposed research, the researcher's professional qualifications, documentation of approval of the research protocol by an institutional review board that meets certain requirements, and any information requested by DHFS. These conditions must be met before DHFS may approve the application and before DHFS may release the information. The bill authorizes DHFS to impose a reasonable fee on a researcher who obtains information. The fee must be commensurate with actual direct costs to DHFS and may be waived by DHFS. Cancer information obtained by DHFS or by a researcher is, under the bill, not subject to open records requirements. The bill specifically prohibits use of the information for a purpose other than for performance of research, disclosure of the information to a person who is not connected with performance of the research, and revealing in the final research product information that may identify a research subject, and creates penalties for violation and intentional violation of the prohibitions. Lastly, the bill creates civil liability to the research subject for any person who negligently or intentionally violates the prohibitions.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

		2007-08	2008-09
4	20.435 Health and family services, department		
5	of		
6	(1) PUBLIC HEALTH SERVICES PLANNING, REGULATION		
7	AND DELIVERY; STATE OPERATIONS		
8	(ae) Cancer information	GPR A	-0- 90,800

9 **SECTION 2.** 20.435 (1) (ae) of the statutes is created to read:

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1 20.435 (1) (ae) *Cancer information*. The amounts in the schedule for cancer
2 information collecting, compiling, and disseminating under s. 255.04.

3 **SECTION 3.** 146.82 (2) (a) 8. of the statutes is amended to read:

4 146.82 (2) (a) 8. To the department under s. 255.04 and to the persons specified
5 under s. 255.04 (3). The release of a patient health care record under this subdivision
6 shall be limited to the information prescribed by the department under s. 255.04 (2).

7 **SECTION 4.** 255.01 (2m) of the statutes is created to read:

8 255.01 (2m) "Research" means a systematic investigation through scientific
9 inquiry, including development, testing, and evaluation, that is designed to develop
10 or contribute to generalizable knowledge.

11 **SECTION 5.** 255.01 (2n) of the statutes is created to read:

12 255.01 (2n) "Researcher" means a person who performs research.

13 **SECTION 6.** 255.04 (3) (c) of the statutes is created to read:

14 255.04 (3) (c) If all of the following conditions are met, a researcher who
15 proposes to conduct research:

16 1. The researcher applies in writing to the department for approval of access
17 to individually identifiable information under sub. (1) or (5) that is necessary for
18 performance of the proposed research and the department approves the application.

19 An application under this subdivision shall include all of the following:

20 a. A written protocol to perform research.

21 b. The researcher's professional qualifications to perform the proposed
22 research.

23 c. Documentation of approval of the research protocol by an institutional
24 review board of a domestic institution that has a federalwide assurance issued by the

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1 office of human research protections of the federal department of health and human
2 services.

3 d. Any other information requested by the department.

4 2. The proposed research is for the purpose of studying cancer, cancer
5 prevention, or cancer control or performing other cancer research.

6 **SECTION 7.** 255.04 (6) of the statutes is created to read:

7 255.04 (6) The department may impose a reasonable fee on a researcher who,
8 under sub. (3) (c), obtains information under sub. (1) or (5). The fee shall be
9 commensurate with the actual direct costs to the department that are associated
10 with collecting, compiling, and disseminating the information to the researcher and
11 may be waived by the department.

12 **SECTION 8.** 255.04 (7) of the statutes is created to read:

13 255.04 (7) Information obtained by the department under sub. (1) or (5) or
14 obtained by a person under sub. (3) (c) is not subject to inspection, copying, or receipt
15 under s. 19.35 (1).

16 **SECTION 9.** 255.04 (8) of the statutes is created to read:

17 255.04 (8) No person to whom information is disclosed under sub. (3) (c) may
18 do any of the following:

19 (a) Use the information for a purpose other than for the performance of
20 research as specified in the application under sub. (3) (c) 1., as approved by the
21 department.

22 (b) Disclose the information to a person who is not connected with performance
23 of the research.

24 (c) Reveal in the final research product information that may identify an
25 individual whose information is disclosed under sub. (3) (c).

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1 **SECTION 10.** 255.04 (9) of the statutes is created to read:

2 255.04 (9) Whoever violates sub. (8) (a), (b), or (c) is liable to the subject of the
3 information for actual damages and costs, plus exemplary damages of up to \$1,000
4 for a negligent violation and up to \$5,000 for an intentional violation.

5 **SECTION 11.** 255.04 (10) of the statutes is created to read:

6 255.04 (10) (a) Whoever intentionally violates sub. (8) (a), (b), or (c) may be
7 fined not more than \$15,000 or imprisoned for not more than one year in the county
8 jail or both.

9 (b) Any person who violates sub. (8) (a), (b), or (c) may be required to forfeit not
10 more than \$100 for each violation. Each day of continued violation constitutes a
11 separate offense, except that no day in the period between the date on which a
12 request for a hearing is filed under s. 227.44 and the date of the conclusion of all
13 administrative and judicial proceedings arising out of a decision under this
14 paragraph constitutes a violation.

15 (c) The department may directly assess forfeitures under par. (b). If the
16 department determines that a forfeiture should be assessed for a particular violation
17 or for failure to correct the violation, the department shall send a notice of
18 assessment to the alleged violator. The notice shall specify the alleged violation of
19 the statute and the amount of the forfeiture assessed and shall inform the alleged
20 violation of the right to contest the assessment under s. 227.44.

21 Fix component
22 → **SECTION 12. Fiscal changes.**

Nonstatutory provisions

23 (1) **CANCER INFORMATION.** The authorized FTE positions for the department of
24 health and family services are increased by 1.0 GPR position on July 1, 2008, to be
25 funded from the appropriation under section 20.435 (1) (ae) of the statutes, as

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1 created by this act, for the purpose of cancer information collecting, compiling, and
2 disseminating.

3 **SECTION 13. Effective date.**

4 (1) This act takes effect on July 1, 2008.

5 (END)

Duerst, Christina

From: Hudzinski, Nicole
Sent: Wednesday, January 23, 2008 11:57 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-3843/1 Topic: Provide health care provider access to cancer reporting system

Please rush.

Please Jacket LRB 07-3843/1 for the SENATE.